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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,019	10/16/2001	Koji Nakamichi	FUJH 19.078	9495
26304	7590	08/23/2005	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			PHUNKULH, BOB A	
575 MADISON AVENUE			ART UNIT	
NEW YORK, NY 10022-2585			PAPER NUMBER	

2661

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/981,019	NAKAMICHI ET AL.	
	Examiner	Art Unit	
	Bob A. Phunkulh	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-11 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 8,12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 12/16/2001 (PTO 1449 is missing) fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

Claim 12 is objected to because of the following informalities: please correct a typo "fist" in line 3 to --first--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 10-11, 14-20, are rejected under 35 U.S.C. 102(b) as being anticipated by Ahmadi et al. (US 5,289,462), hereinafter Ahmadi.

Regarding claims 1, 14-20, Ahmadi discloses in a communication network having a plurality of nodes (network nodes 11 and endnodes 12, see figure 1) which transmit, receive or transfer communicated information, and a plurality of links (links A-O), which connect the plurality of nodes to each other, a traffic information collecting device, which is provided in at least one of the plurality of nodes, for collecting traffic information all or some of the plurality of links, comprising:

a traffic information collecting unit for collecting first traffic information of a first link connected to an own node among the plurality of links (the capacity of each link in a proposed route is examined to determine if the new connection can be handled on a statistical basis, and each "link metric vector is determined, see col. 3 line 49 to col. 4 line 11);

a traffic information transmitting unit for transmitting, to the other nodes, the first traffic information collected by the traffic information collecting unit, using a message prescribed in a communication protocol in the communication network (see col. 4 lines 21-29);

a traffic information receiving unit for receiving second traffic information of second links connected to the other nodes among the plurality of links, the second traffic information being transmitted from the other nodes (see col. 4 line 21-29); and

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a traffic information storage for storing the first and second traffic information (each node includes a storage for storing a representation of the traffic load for all connections, see claim 1).

Regarding claim 6, Ahmadi the first and second traffic information is traffic information of a link for outputting the traffic (link metric vectors, see col. 8 lines 12-24).

Regarding claim 10, Ahmadi discloses the node is a router (the network is use for routing packets, see col. 5 lines 38 to col. 6 line 24).

Regarding claim 11, Ahmadi discloses the node having the traffic information collecting device is a node for controlling a load sharing of the traffic in the communication network (the network access controller 39 and route controller 37 control the load of the traffic in the communication network, figure 3 and col. 7 line 1 to 28).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmadi.

Regarding claims 2-5, and 7, Ahmadi fails to disclose the traffic information transmitting unit monitor/transmits the first/second traffic information at predetermined fixed time intervals.

However, it would have been obvious to one having ordinary skill in the art at the time of invention was made to transmit traffic or load information by each node to other connecting nodes at a predetermined period in order to for each node to quickly determine whether a new connection request can be accommodated.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmadi in view of Callon (US 5,600,794).

Regarding claim 9, Ahmadi fails to disclose the system uses an opaque link state advertisement in the OSPF protocol.

Callon, on the other hand, discloses the distributed nodes using link state advertisement e.g. OSPF protocol for exchanging of metrics between routing nodes in the network (see col. 1 lines 32-37).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made provides the teaching of Callon especially using OSPF protocol for link advertisement in the system taught by Ahmadi in order to provides the system with ability to calculate routes based on the number of routers, transmission speed, delays and router cost.

Allowable Subject Matter

Claims 8 and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any response to this action should be mailed to:

The following address mail to be delivered by the United States Postal Service (USPS) only:

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or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

The following address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, Hand Delivery, etc.) as follow:

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Arlington, VA 22202.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bob A. Phunkulh** whose telephone number is **(571) 272-3083**. The examiner can normally be reached on Monday-Tuesday from 8:00 A.M. to 5:00 P.M. (first week of the bi-week) and Monday-Friday (for second week of the bi-week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Chau Nguyen**, can be reach on **(571) 272-3126**. The fax phone number for this group is **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bob A. Phunkulh
Primary Examiner
TC 2600
Art Unit 2661
August 22, 2005

**BOB PHUNKULH
PRIMARY EXAMINER**